

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

EUGENE CAYSON,)	CASE NO. 1:09 CV 1238
)	
Petitioner,)	JUDGE ANN ALDRICH
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
STATE OF OHIO,)	<u>AND ORDER</u>
)	
Respondent.)	

On May 29, 2009, petitioner pro se Eugene Cayson filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254. Cayson is incarcerated at the Southern Ohio Correctional Facility, having pleaded guilty to felonious assault with a firearm specification. For the reasons stated below, the petition is denied and this action is dismissed.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

Cayson raises two grounds in support of the petition. Without regard to the potential merits of these grounds, it is evident on the face of the petition that they have yet to be raised

and exhausted in the Ohio courts. The petition is thus premature.

Accordingly, the request to proceed in forma pauperis is granted, and this action is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. Fed.R.App.P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

s/Ann Aldrich
ANN ALDRICH
UNITED STATES DISTRICT JUDGE

Dated: August 3, 2009